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7 **UNITED STATES DISTRICT COURT**
WESTERN DISTRICT OF WASHINGTON

8
9 FEDERAL TRADE COMMISSION,

10 Plaintiff,

11 v.

12 AMAZON.COM, INC.,

13 Defendant.
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Case No. 2:23-cv-0932

**PLAINTIFF'S MOTION TO
DESEQUESTER DOCUMENTS
CLAWED BACK BY DEFENDANT**

NOTE ON MOTION CALENDAR:
Friday, July 7, 2023

PLAINTIFF'S MOTION TO
DESEQUESTER
Case No. __: __-cv-____

Federal Trade Commission
600 Pennsylvania Avenue NW
Washington, DC 20580
(202) 326-3320

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INTRODUCTION

Plaintiff Federal Trade Commission (“FTC”) files this motion to restore its access to [REDACTED] documents clawed back by Defendant Amazon.com, Inc. (“Amazon”) during the FTC’s investigation (the “Clawed Back Documents”), and thereafter sequestered by the FTC. Amazon either waived privilege as to these documents or never had a valid privilege claim.

As detailed in the FTC’s concurrently filed Complaint, Amazon knew for years it charged consumers (“nonconsensual enrollees”) for Prime memberships consumers did not know they had. Additionally, through what Amazon internally called the “Iliad” cancellation process,¹ the company knowingly complicated consumers’ Prime cancellations. [REDACTED]

[REDACTED], Amazon tried to cloak relevant documents under specious attorney-client privilege claims. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] It was only in the late stages of the investigation leading to this case that Amazon sought to undo some of those [REDACTED] decisions by clawing back [REDACTED] documents previously produced, often more than once, to the FTC.

Amazon’s clawback attempt must fail for two reasons. First, Amazon waived any privilege that might previously have applied to the Clawed Back Documents because it cannot prove it produced the documents inadvertently, took reasonable steps to prevent their production,

¹ Amazon’s internal name for its cancellation process (Iliad) appropriately refers to Homer’s 200,000-word, 15,000-line epic about the Trojan War.

1 and acted promptly to correct its “errors.” Second, it is likely that if the Court reviews the
2 Clawed Back Documents—which the FTC has provided *in camera*—it will determine they were
3 never privileged because their primary purpose was neither to seek nor provide legal advice.

4 **BACKGROUND**

5 **A. Amazon’s Efforts to Shield “Sensitive” Documents from Discovery**

6 **1.** [REDACTED]

7 Amazon’s practice [REDACTED]
8 [REDACTED]
9 [REDACTED] to protect damaging documents from disclosure.

10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]

[REDACTED]

Ex. A at 209.

2. [REDACTED]

In conjunction with [REDACTED], Amazon employees also sought to shield communications [REDACTED]

[REDACTED]. These features typify non-privileged “silent attorney” communications.

[REDACTED]

[REDACTED]

1 Ex. A at 163-164. [REDACTED]
2 [REDACTED]
3 [REDACTED]

4 **B. Amazon's [REDACTED] Pre-Production Privilege Reviews**

5 At different times relevant here, [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED] Ex. A at 50-64. Despite the CID's extensive scope, [REDACTED]
17 [REDACTED] Amazon gave various excuses for its
18 limited, slow productions including, as relevant here, [REDACTED]
19 [REDACTED].

20 **C. Amazon's Untimely Clawbacks**

21 During the late stages of the Dark Patterns Investigation, [REDACTED]
22 [REDACTED], Amazon began clawing back
23 documents. In many cases, Amazon had produced the documents more than once, and up to [REDACTED]

1 [REDACTED]. Many of these documents already contained privilege redactions, and Amazon only began
 2 attempting to claw them back long after learning of its “inadvertent” productions.

3 **1. Amazon’s [REDACTED] Objection to the Purportedly Privileged,**
 4 **[REDACTED] “ [REDACTED] ”**

5 One of the documents Amazon now seeks to clawback (IC1²) is a [REDACTED]
 6 [REDACTED]
 7 [REDACTED]
 8 [REDACTED]
 9 [REDACTED]
 10 [REDACTED].

11 [REDACTED]
 12 [REDACTED]
 13 [REDACTED]
 14 [REDACTED]
 15 [REDACTED]
 16 [REDACTED]
 17 [REDACTED]
 18 [REDACTED]

19 [REDACTED]. Counsel’s non-objection was hardly surprising. [REDACTED]
 20 [REDACTED].

21
 22 _____
 23 ² “IC1” refers to the first document in the *in camera* set the FTC is contemporaneously submitting on a thumb drive.
 See Ex. A at 302-308 (identifying all “IC” documents).

[REDACTED]

[REDACTED]³ Ex. A ¶ 26.

2. Amazon's Seesaw Privilege Claims over the [REDACTED]

[REDACTED]

³ This, of course, heightens the disingenuousness of Amazon's indignation with FTC counsel. Apparently, in Amazon's view, the FTC should have [REDACTED].

Ex. A at 253.

Just two weeks later, Amazon reversed course yet again.

3. Amazon's Clawback of Additional Documents

, Amazon said nothing about the vast majority of documents it now seeks to claw back. In fact,

⁴ FTC counsel was unaware Amazon had redacted, as partially privileged, other copies of the

1 [REDACTED]
 2 [REDACTED]⁵ [REDACTED]
 3 [REDACTED]
 4 [REDACTED]
 5 [REDACTED]
 6 [REDACTED],⁶ [REDACTED]
 7 [REDACTED]
 8 [REDACTED]

ARGUMENT

9 Because Amazon cannot establish (1) its original productions of the Clawed Back
 10 Documents were inadvertent, (2) that it took reasonable steps to prevent production of the [REDACTED]
 11 [REDACTED], and (3) that it acted promptly to remedy its purported errors, Amazon waived any
 12 privilege claim as to the Clawed Back Documents. Moreover, even if there were no waiver, the
 13 Court should conduct an *in camera* review of the Clawed Back Documents, which likely are not
 14 privileged at all given Amazon's documented [REDACTED].

I AMAZON WAIVED ANY PRIVILEGE CLAIM OVER THE CLAWED BACK DOCUMENTS.

15 To avoid a finding of waiver, Amazon must prove (1) its prior productions of the Clawed
 16 Back Documents were "inadvertent"; (2) it took "reasonable steps to prevent" the productions;
 17 and (3) it "promptly took reasonable steps to rectify" the purportedly inadvertent productions.

18 [REDACTED]
 19 [REDACTED]⁵ [REDACTED]
 20 [REDACTED] pursuant to 16 C.F.R. § 2.11(d)(1)(ii)(B), the Commission elected to "[s]equester such
 21 material until such time as [a] . . . court may rule on . . . the claim of privilege[.]" As described in Ex. A ¶¶ 46-52,
 22 after sequestering the documents, the FTC used a filter team to prepare the documents for *in camera* submission and
 23 compile limited, nonprivileged information relevant to this motion. See Ex. A at 302-08 (chart containing
 information regarding Clawed Back Documents, including information provided by filter team); see also Fed. R.
 Civ. P. 26(b)(5)(B) (permitting party informed of inadvertent production to "present the [documents] to the court . . .
 for a determination of the [privilege] claim").

6 [REDACTED]
 [REDACTED]

1 Fed. R. Evid. 502(b). Amazon bears the burden of establishing each element. *See, e.g., Callan*
 2 *v. Christian Audigier, Inc.*, 263 F.R.D. 564, 566 & n.3 (C.D. Cal. 2009) (citation omitted)
 3 (adopting “standard practice” of placing burden on party seeking to prevent waiver). Because,
 4 for each Clawed Back Document, Amazon fails on at least one element, a finding of waiver is
 5 appropriate.

6 **A. Amazon’s Prior Productions Could Not Have Been Inadvertent.**

7 A production is “inadvertent” if, *inter alia*, it was a “mistake” rather than intentional.
 8 *See, e.g., Multiquip, Inc. v. Water Mgmt. Sys. LLC*, 2009 WL 4261214, at *4 (D. Idaho Nov. 23,
 9 2009). Therefore, where a party makes a “knowing production, after careful review,” the
 10 “logical assumption” is the party waived privilege. *Northrop Grumman Sys. Corp. v. United*
 11 *States*, 120 Fed. Cl. 436, 439 (2015); *see also N.M. Oncology & Hematology Consultants, Ltd. v.*
 12 *MV/GBW Presbyterian Healthcare Servs.*, 2017 WL 5644390, at *5-6 (D.N.M. Feb. 27, 2017)
 13 (party could not “credibly” claim inadvertence where, as here, it “carefully reviewed each
 14 [produced] document”).

15 For at least three reasons, Amazon cannot meet its burden of proving inadvertence. *First*,
 16 as described *supra* p. 5, [REDACTED]

17 [REDACTED]
 18 [REDACTED]. Therefore, it is evident Amazon made deliberate decisions it
 19 now regrets—perhaps only after recognizing the documents’ significance to this case⁷—not the
 20 type of mistakes addressed by Rule 502.

21 ⁷ Consistent with the likelihood that Amazon’s clawbacks are strategic, Amazon [REDACTED]
 22 [REDACTED]
 23 [REDACTED]. Only the document’s significance—*i.e.*, the harm it can cause Amazon’s legal position—varies.

1 *Second*, there is no question Amazon waived privilege with respect to the [REDACTED] Clawed
 2 Back Documents it previously produced with redactions (including [REDACTED] and [REDACTED]
 3 [REDACTED]). Ex. A at 302-08 (identifying [REDACTED] documents originally produced with redactions).⁸
 4 Producing a redacted document is an unmistakable indication at least one attorney reviewed the
 5 document and made intentional privilege decisions. *See, e.g., ePlus Inc. v. Lawson Software,*
 6 *Inc.*, 280 F.R.D. 247, 255 (E.D. Va. 2012) (rejecting clawback attempt in part because document
 7 “was produced in redacted form, indicating that, in fact, it had been reviewed by [the party]
 8 before production”). This is particularly true for [REDACTED].

9 *Third*, Amazon previously produced at least [REDACTED] Clawed Back Documents at least twice⁹
 10 (and up to [REDACTED]¹⁰), again including [REDACTED].¹¹ Ex. A ¶¶ 48,
 11 49(a), 51. Another [REDACTED] documents may not be identical to one another but appear to be different
 12 versions of the same document.¹² Ex. A ¶¶ 49(b)-51. [REDACTED]
 13 [REDACTED] it makes no sense that the company would make the exact same
 14 privilege “mistake” multiple times ([REDACTED]).

15 _____
 16 ⁸ These documents, referenced by their *in camera* exhibit number, are: [REDACTED] Ex. A at 302-08 (sixth
 17 column).

18 ⁹ These documents, referenced by their *in camera* exhibit number, are: [REDACTED]
 19 [REDACTED] Ex. A at 302-08 (second column from right).

20 ¹⁰ The following Clawed Back Documents [REDACTED] different copies of the same document: [REDACTED]
 21 [REDACTED] Ex. A at 302-08 (second column from right).

22 ¹¹ It is possible, if not likely, that there are more Clawed Back Documents that Amazon produced at least twice.
 23 Because, however, the FTC sequestered the Clawed Back Documents, it did not conduct this analysis. For example,
 the FTC did not compare fully Clawed Back Documents to one another. Additionally, the FTC could not determine
 whether there remain non-clawed-back copies of any Clawed Back Documents. Amazon, of course, could
 determine how many Clawed Back Documents it had produced on multiple occasions and provide the answer in its
 opposition to the motion.

¹² These documents, referenced by their *in camera* exhibit number, are: [REDACTED]
 [REDACTED] Ex. A 302-08 (right-most column).

1 [REDACTED]. See, e.g., *T&W Holding Co., LLC v. City of Kemah*, 2022 WL 16948565,
 2 at *4 (S.D. Tex. Nov. 15, 2022) (party's repeated production of a document "indicat[es] that the
 3 production was not an isolated mistake"); *United States v. Citgo Petro. Corp.*, 2007 WL
 4 1125792, at *5 (S.D. Tex. Apr. 16, 2007) (party could not claim inadvertence where party had
 5 "twice disclosed the privilege[d] documents in different forms at different times").

6 **B. Amazon Did Not Take "Reasonable Steps" to Prevent Production of [REDACTED]**

7 To establish the requisite "reasonable steps" to prevent disclosure of privileged
 8 documents, a party must explain its privilege review "methodology." *Williams v. District of*
 9 *Columbia*, 806 F. Supp. 2d 44, 49 (D.D.C. 2011) (citation omitted). Disclosure of a document as
 10 part of a "relatively *de minimis* production" weighs in favor of waiver. *Id.* at 50. As described
 11 above, [REDACTED].

12 It is inconceivable that, if this document is actually privileged, Amazon could have taken
 13 reasonable steps to prevent disclosure of it [REDACTED].

14 **C. Amazon Did Not Act "Promptly" to Remedy Its Purportedly Inadvertent**
 15 **Productions.**

16 Even if Amazon could prove inadvertence and reasonable precautions, it cannot prove it
 17 acted "promptly" to correct its inadvertent productions, because it decidedly did not. See Fed. R.
 18 Evid. 502(b). "Numerous courts have held that once a party realizes a document has been
 19 accidentally produced, it must assert privilege with *virtual immediacy*." *Ecological Rts. Found.*
 20 *v. FEMA*, 2017 WL 24859, at *7 (N.D. Cal. Jan. 3, 2017) (cleaned up) (emphasis added); see
 21 also *Skansgaard v. Bank of Am., N.A.*, 2013 WL 828210, at *3 (W.D. Wash. Mar. 6, 2013)
 ("[C]law back requests should be made immediately, with delays of even a few weeks

22 ¹³ For the remaining Clawed Back Documents, Amazon appears to have taken reasonable pre-production steps to
 23 protect privilege, assuming it can meet its burden to prove its statements about the thoroughness of its privilege
 review process, see *supra* p. 5.

determined to be too long”); *Xu v. FibroGen, Inc.*, 2023 WL 3475722, at *6 (N.D. Cal. May 15, 2023) (finding waiver where party “began [its] investigation” of privileged document four days after receiving notice of its production; “failed to put [opposing counsel] on notice of its investigation”; and waited just seven more days to claw back document).

Amazon’s failure to act promptly is most glaring for [REDACTED]. The law is clear: “if a privileged document is used at a deposition, and the privilege holder fails to object immediately, the privilege is waived.” *Luna Gaming-San Diego, LLC v. Dorsey & Whitney, LLP*, 2010 WL 275083, at *5 (S.D. Cal. Jan. 13, 2010) (collecting cases) (emphasis added); *Mycone Dental Supply Co. v. Creative Nail Design Inc.*, 2013 WL 4758053, at *3 (N.D. Cal. Sept. 4, 2013) (producing party “should have recalled the document that was used in the deposition immediately after the deposition”). [REDACTED]

[REDACTED] See *supra* pp. 6-7.

Amazon also dragged its feet in clawing back the [REDACTED]. [REDACTED]
[REDACTED]
[REDACTED]. Ex. A ¶¶ 32-34. See *FibroGen*, 2023 WL 3475722, at *6 (finding waiver based on 11-day delay). Presumably, Amazon simply needed to search its production databases for other copies of the document—a task that should take hours, not days.

Amazon’s delays extend to the other Clawed Back Documents. Specifically, where, as here, a party is put on notice of privilege issues with its production, it must promptly review the production for inadvertently produced documents. See, e.g., *Luna*, 2010 WL 275083, at *6 (finding waiver where “use of the [privileged document] . . . put [the producing party] on notice that its document production was defective”; the party “should have taken prompt and diligent steps to reassess its document production”); see also *Mycone Dental*, 2013 WL 4758053, at *3

(after “immediately” clawing back document used at deposition, party should have “then conducted a more thorough and timely investigation into the rest of the production”).

Here, Amazon knew or should have known it had a problem with its productions no later than [REDACTED]. *See supra* pp. 6-7. (In fact, ten days earlier, [REDACTED] [REDACTED]. Ex. A at 223, 225.) *At a minimum*, Amazon was aware of “issues” [REDACTED]. Ex. A ¶ 38. Eschewing its burden of demonstrating promptness, the company has refused to reveal what steps it took, or when, to identify the [REDACTED]. The available evidence—[REDACTED]—demonstrates Amazon did not act promptly. Accordingly, it waived privilege over the Clawed Back Documents.¹⁵

II AN *IN CAMERA* REVIEW LIKELY WILL REVEAL AMAZON NEVER HAD A VALID PRIVILEGE CLAIM OVER THE CLAWED BACK DOCUMENTS.

Because Amazon waived privilege, the Court need not determine whether Amazon ever had a valid privilege claim as to the Clawed Back Documents. If, however, the Court reaches this question, it should conduct an *in camera* review, given Amazon’s [REDACTED] [REDACTED].¹⁶ Based on the facts described *supra* pp. 2-5, it is likely the

¹⁴ Amazon clearly did not act promptly to claw back this document, [REDACTED]

Ex. A ¶¶ 38-39.

¹⁵ Amazon clawed back [REDACTED]. Ex. A ¶ 40. Amazon has not stated when it learned of these “inadvertent” productions and therefore cannot, without correcting that deficiency, prove promptness.

¹⁶ The threshold showing required to justify an *in camera* review is “not high.” *L.D. v. United Behavioral Health*, 2022 WL 3139520, at *11 (N.D. Cal. Aug. 5, 2022) (citing *In re Grand Jury Investigation*, 974 F.2d 1068, 1074 (9th Cir. 1992)). In particular, the party seeking *in camera* review “need only show a factual basis sufficient to support a reasonable, good faith belief that *in camera* inspection may reveal . . . the materials is not privileged.” *Id.* (quoting *Grand Jury Investigation*, 974 F.2d at 1075).) The FTC easily clears this bar based on [REDACTED], *see supra* pp. 2-5, and the bizarre circumstances surrounding Amazon’s clawbacks, *see supra* pp. 5-9, which may reflect that the clawbacks are strategic rather than clear, undisputable privilege claims.

relevant documents were not sent for the “primary purpose” of obtaining or providing legal advice.

A. The Clawed Back Documents Were Only Privileged If Sent for the Primary Purpose of Giving or Receiving Legal Advice.

The attorney-client privilege applies only where the “primary purpose” of the document “is to give or receive legal advice, as opposed to business . . . advice.” *In re Grand Jury*, 23 F.4th 1088, 1091 (9th Cir. 2021), *certiorari dismissed as improvidently granted*, 143 S. Ct. 543.¹⁷ That is because the privilege “protects only those disclosures necessary to obtain informed legal advice which might not have been made absent the privilege.” *Id.* at 1092 (quoting *Fisher v. United States*, 425 U.S. 391, 403 (1976)). The Ninth Circuit adopted this “primary purpose” test to avoid the situation presented here, where a company “add[s] layers of lawyers to every business decision in hopes of insulating [it] from scrutiny in any future litigation.” *Id.* at 1093-94.

Because the FTC sequestered the Clawed Back Documents pending the outcome of this motion, it cannot apply the “primary purpose” test to specific documents. Nevertheless, the non-privileged facts described *supra* pp. 2-5 make clear the Clawed Back Documents likely were *not* for the primary purpose of obtaining legal, as opposed to business, advice. In fact, in many cases, the documents likely were only [REDACTED] in anticipation of exactly this situation: to manufacture an unfounded privilege claim.

B. [REDACTED] Cannot Support Their Privilege Claims.

For both factual and legal reasons, the Court should give no weight to any “privileged and confidential” markings on the Clawed Back Documents. Factually, the overwhelming

¹⁷ [REDACTED], Amazon asserted work-product protection. Ex. A at 302-08 (fifth column). To support that claim, Amazon must establish that it prepared the documents “because of the prospect of litigation” and that they “would not have been created in substantially similar form but for the prospect of that litigation.” *In re: Grand Jury Subpoena*, 357 F.3d 900, 907-08 (9th Cir. 2004) (citations omitted).

evidence establishes Amazon [REDACTED]
 [REDACTED]
 [REDACTED] *See supra* pp. 2-4; *see also In re Grand Jury Matter*, 147 F.R.D. 82, 87 (E.D. Pa. 1992) (labelling documents “privileged and confidential” was “indicative” of attempt to shield them from investigative authorities). Courts repeatedly have found simply labelling a document “privileged and confidential” does not “automatically confer” privileged status. *Oracle America, Inc. v. Google*, 2011 WL 5024457, at *3 (N.D. Cal. Oct. 20, 2011); *see also Koumoulis v. Indep. Fin. Mktg. Grp., Inc.*, 295 F.R.D. 28, 38 (E.D.N.Y. 2013) (“[T]he attorney-client privilege is not available merely by stamping a document that was prepared by an attorney, which contains solely business advice, ‘PRIVILEGED AND CONFIDENTIAL’ [or] ‘Advice of Counsel.’”), *aff’d*, 29 F. Supp. 3d 142 (E.D.N.Y. 2014) (second alternation in original) (citation omitted).

Relatedly, Amazon’s use of [REDACTED] does not support their privilege claims. Silent attorney communications—*i.e.*, those that (1) are not, on their face, genuinely directed to an attorney, and (2) prompt no response from the attorney—are not privileged because they are not genuinely meant to “facilitate the rendering of legal advice.” *Bruno v. Equifax Info. Servs., LLC*, 2019 WL 633454, at *5 (E.D. Cal. Feb 14, 2019) (considering the absence of “any indication that either attorney responded to the emails” as evidence that they were not sent for the purpose of obtaining legal advice). This fact is true regardless of whether attorneys are placed on the “To” or “Cc” line. *See, e.g., Nueder v. Battelle Pac. Nw. Nat’l Lab’y*, 194 F.R.D. 289, 295 (D.D.C. 2000) (“[D]ocuments prepared by non-attorneys and addressed to non-attorneys with copies routed to counsel are generally not privileged.”) (citation omitted); *Oracle*, 2011 WL 5024457 at *2 (email not “directed to” an attorney even when attorney appeared on the “To:” line). Similarly, “[m]erely forwarding a communication to a lawyer with the subject line ‘legal review needed’ is not sufficient to confer the privilege to the initial communication” *In re Chase Bank USA, N.A. Check Loan*

1 *Contract Litig.*, 2011 WL 3268091, at *3 (N.D. Cal. July 28, 2011). Thus, Amazon’s practice of

2 [REDACTED]

3 [REDACTED].

4 Finally, as at least one court in this district has observed, “extra scrutiny is required
 5 where in-house counsel is involved, as in-house counsel often act in both a legal and non-legal
 6 business capacity.” *Chandola v. Seattle Housing Auth.*, 2014 WL 5023518, at *1 (W.D. Wash.
 7 Oct. 7, 2014); *see also Neuder*, 194 F.R.D. at 295 (D.D.C. 2000) (“In cases that involve in-house
 8 counsel, it is necessary to apply the privilege cautiously and narrowly . . .”). Accordingly, for
 9 communications with in-house counsel, Amazon “must make a ‘*clear showing*’ that the
 10 ‘speaker’ made the communications for the purpose of obtaining or providing legal advice.”
 11 *United States v. ChevronTexaco Corp.*, 241 F. Supp. 2d 1065, 1076 (N.D. Cal. 2002) (emphasis
 added) (citation omitted).

12 CONCLUSION

13 The FTC respectfully requests that the Court enter the attached proposed order allowing
 14 the FTC to desquester the Clawed Back Documents.

LOCAL RULE 7(e) CERTIFICATION

I certify that this memorandum contains 5,852 words. The FTC has concurrently filed a Motion for Leave to Exceed Word Limit.

Dated: June 21, 2023

/s/ Evan Mendelson

EVAN MENDELSON (D.C. Bar #996765)
OLIVIA JERJIAN (D.C. Bar #1034299)
THOMAS MAXWELL NARDINI
(IL Bar #6330190)
Federal Trade Commission
600 Pennsylvania Avenue NW
Washington DC 20580
(202) 326-3320; emendelson@ftc.gov (Mendelson)
(202) 326-2749; ojerjian@ftc.gov (Jerjian)
(202) 326-2812; tnardini@ftc.gov (Nardini)

COLIN D. A. MACDONALD (WSBA # 55243)
Federal Trade Commission
915 Second Ave., Suite 2896
Seattle, WA 98174
(206) 220-4474; cmacdonald@ftc.gov (MacDonald)

Attorneys for Plaintiff
FEDERAL TRADE COMMISSION

CERTIFICATE OF SERVICE

I, Evan Mendelson, certify that on June 21, 2023, I electronically filed the foregoing motion with the Clerk of the Court using the CM/ECF system. Additionally, I have directed a process server to hand deliver the foregoing motion, and any attachments thereto, to the Defendant's registered agent: Corporation Service Company, 251 Little Falls Drive, Wilmington, DE 19808. I will also provide a courtesy copy of this motion to counsel for the Defendant by email today.

By: /s/ Evan Mendelson